

REMARKS/ARGUMENTS

This Response to Office Action is responsive to the Office Action dated July 24, 2006. This Response is filed within three months of the mailing date of the Office Action.

The Examiner rejected claims 16-21, 37-46, 48, and 49 under 35 U.S.C. §102(e), as being anticipated by U.S. Pat. Pub. No. 2002/0016818 A1 (Kirani et al.) or in the alternative as being anticipated by U.S. Pat. Pub. No. 2002/0059384 A1 (Kaars). The claims have not been amended, so no new claim listing is required.

Kirani et al. has a filing date of July 6, 2001, and Kaars has a filing date of July 5, 2001. The applicants have provided a declaration filed in accordance with 37 CFR 1.131 to swear behind these references. The applicants respectfully assert that the 131 declaration is effective to establish a date of invention prior to July 5, 2001. Specifically, the applicants have provided as evidence a draft of a patent application (Exhibit B of the 131 Affidavit), which includes substantially all of the claimed elements of independent claim 16, which is correlated to the patent application draft for the purposes of example only. While the patent attorney may or may not have made certain errors or omissions in the original draft, the applicants respectfully assert that the draft provides sufficient objective evidence to prove that conception had occurred. Moreover, the fact that the applicants had sought the aid of a patent attorney to assist in the filing of a patent application, along with the assertion by the applicants that they were diligently proceeding, is sufficient objective evidence that the applicants were diligently constructively reducing to practice.

Since arguments regarding the cited references are deemed unnecessary, the applicants make no attempt to characterize the cited references. Since the applicants have overcome all of the rejections, the applicants respectfully assert that the Examiner must either allow the claims or find new prior art and send a ***non-final*** Office Action if relevant art is discovered.

For the reasons given above, the applicants respectfully submit that Claims 16-21, 37-46, 48, and 49 are in a condition for allowance. The applicant respectfully

requests that all rejections be withdrawn and the application be allowed at the earliest date possible. Should the Examiner have any questions or comments, he is encouraged to call the undersigned at (650) 838-4305 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,
Perkins Coie LLP

A handwritten signature in black ink, appearing to read 'William F. Ahmann', is written over a horizontal line.

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